

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

4 HANLEY CHEW (CSBN 189985)
Assistant United States Attorney

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5061
E-mail: hanley.chew@usdoj.gov

FILED

JULY 18 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) No. CR 08-00454 JW (HRL)
Plaintiff,)
vs.)
FORREST WILLIAM McELFRESH,)
Defendant.)
STIPULATION AND [PROPOSED] ORDER EXCLUDING TIME FROM JULY 15, 2008 THROUGH AUGUST 25, 2008 FROM CALCULATIONS UNDER THE SPEEDY TRIAL ACT (18 U.S.C. § 3161)

On July 15, 2008, defendant Forrest William McElfresh made his initial appearance before Magistrate Judge Howard R. Lloyd. Assistant Federal Public Defender Manuel Arajua, appeared on behalf of the defendant. Assistant United States Attorney Hanley Chew appeared for the government. Magistrate Judge Lloyd ordered the parties to appear before Judge James Ware on August 25, 2008 at 1:30 p.m. for trial setting in this matter.

The parties request that the Court enter this order documenting the exclusion of time from

**STIP. & [PROPOSED] ORDER
U.S. v. McELFRESH, No. CR 08-00454 JW**

1 calculations under the Speedy Trial Act, 18 U.S.C. § 3161, from July 15, 2008 through August
 2 25, 2008. The parties, including the defendant, stipulate as follows:

3 1. The defendant understands and agrees to the exclusion of time from calculations under
 4 the Speedy Trial Act, 18 U.S.C. § 3161, from July 15, 2008 through August 25, 2008, based
 5 upon the need for the defense counsel to investigate further the facts of the present case. The
 6 government has already provided discovery and defense counsel needs additional time to review
 7 the discovery, evaluate further possible defenses and motions available to the defendant.

8 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
 9 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
 10 effective preparation of the defense; believes the exclusion is in the defendant's best interests;
 11 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be
 12 from July 15, 2008 through August 25, 2008.

13 Given these circumstances, the parties believe, and request that the Court find, that the
 14 ends of justice are served by excluding from calculations the period from July 15, 2008 through
 15 August 25, 2008, outweigh the best interests of the public and the defendant in a speedy trial
 16 under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

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 18 IT IS SO STIPULATED.



19 DATED: 7/18/08
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HANLEY CHEW
 Assistant United States Attorney

1 [PROPOSED] ORDER
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3 Having considered the stipulation of the parties, the Court finds that: (1) the
4 defendant understands and agrees to the exclusion of time from calculations under the Speedy
5 Trial Act, 18 U.S.C. § 3161, from July 15, 2008 through August 25, 2008, based upon the need
6 for the defense counsel to investigate further the facts of the present case, review the discovery
7 that the government has already provided and evaluate further possible defenses and motions
8 available to the defendant; (2) the exclusion of time is necessary for effective preparation of the
9 defense and is in the defendant's best interests; and (3) the ends of justice are served by
excluding from calculations the period from July 15, 2008 through August 25, 2008.

10 Accordingly, the Court further orders that the time from July 15, 2008 through August 25,
11 2008 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

12 IT IS SO ORDERED.
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14 DATED: 7/18/08

15 THE HONORABLE HOWARD R. LLOYD
United States Magistrate Judge
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